

REMARKS

Favorable reconsideration is respectfully requested in view of the foregoing amendments and the following remarks.

I. CLAIM STATUS AND AMENDMENT

Claims 1-6 were pending in this application when last examined.

Claim 7 stood cancelled without prejudice or disclaimer thereto.

Claims 1-6 were examined on the merits and stand rejected.

Claims 2-3 are cancelled herein without prejudice or disclaimer thereto.

Claim 1 is amended herein to clarify the claimed invention. Support for this amendment may be found, inter alia, in the claims as originally filed and in the specification.

No new matter has been added.

II. REJECTIONS UNDER 35 USC 102(b) and 103(a)

On page 2 of the Office Action, claims 1 and 4 are rejected under 35 USC 102(b) as being anticipated by Sugimoto et al. (USPN 4,656,044).

On page 3 of the Office Action, claims 1 and 3-4 are rejected under 35 USC 102(b) as being anticipated by Chinese Patent 1253173.

On pages 4-5 of the Office Action, claims 1-2 and 4-6 are rejected under 35 USC 103(a) as being unpatentable over Saito et al. (WO 02/067690; USPN 7,465,470 is being used as a translation) in view of Sugimoto et al. (USPN 4,656,044) or Chinese Patent 1253173.

Applicants respectfully traverse these rejections as applied to the amended claims.

By the above amendments, claim 2, which is not rejected under 35 USC 102(b), and claim 3, which is not rejected under 35 USC 103(a), are incorporated into claim 1. Therefore, the claimed invention should not be rejected under 35 USC 102(b) and 35 USC 103(a).

For the Examiner's reference, the following comments are submitted:

(1) Sugimoto et al.

The Examiner recognizes that the fermented soybean milk of Sugimoto is acid soluble from the description of column 2, lines 17-45, of Sugimoto. However, Applicants respectfully submit that this understanding is not correct. The fermented soybean milk of Sugimoto is not dissolved. The description is only “producing no precipitation”. Sugimoto teaches that “soybean milk protein has its isoelectric point in a pH region of 4.5 to 4.6, and therefore fermented soybean milk and acid soybean milk, as a matter of course, form the coagulum and precipitate of protein” (column 1, lines 45-49, of Sugimoto). In addition, Sugimoto teaches that “the present inventors searched for a substance acting to stabilize a homogenous dispersion liquid of soybean milk protein in ethyl alcohol” (column 2, lines 43-45, of Sugimoto). Therefore, Sugimoto only discloses the soybean protein that is precipitated in acidic region. In other words, Sugimoto neither teaches nor suggests using acid-soluble soybean protein for solution or gel containing alcohol.

Thus, the claimed invention is not anticipated by Sugimoto.

(2) CN 1253173

The Examiner recognizes that wine beverage of CN 1253173 would naturally have the soybean protein in a state of dissolution. However, Applicants respectfully submit that this understanding is not correct.

Soybean protein powder of CN 1253173 is obtained by drying the soybean slurry (see page 6 and claim 7 of CN 1253173). Thus, CN 1253173 only discloses conventional soybean protein. As Sugimoto describes, conventional soybean protein forms a coagulum and a precipitate in an acidic region. In addition, the attached reference (JAOCs, Vol. 80, no. 1, pages 85-90) teaches that solubility of isolated soybean protein in pH of 4 or lower is less than 60% (see Fig. 1). Therefore, it is common general technical knowledge that solubility of conventional isolated soybean protein in pH of 4 or lower is less than 60%. Therefore, a skilled person in the art understands that the soybean protein powder of CN 1253173 is not the acid-soluble soybean protein of the present invention.

The Examiner points to the disclosure of page 2, step 2, of CN 1253173. However, in step 2, protein powder is dissolved into only water, which has neutral pH. Acidification (i.e., adding citric acid) is carried out in a later step (step 4). A skilled person in the art understands that soybean protein is not dissolved in step 4. In fact, CN 1253173 does not teach that the

mixed syrup in step 4 is transparent (page 8, step 4), while it is clearly taught that the syrup before mixing is transparent (page 7, step 3).

Therefore, CN 1253173 neither teaches nor suggests using acid-soluble soybean protein for solution or gel containing alcohol. Applicants respectfully submit that the Examiner's position is not reasonable.

Thus, the claimed invention is not anticipated by CN 1253173.

(3) Combination of Saito et al. and Sugimoto et al. or CN1253173

As explained above, neither Sugimoto nor CN 1253173 disclose acid-soluble soybean protein.

For these reasons, Applicants respectfully submit that one skilled in the pertinent art would find no reason in the teachings of the cited references to modify or combine their teachings in order to arrive at the claimed invention, nor would he have any reasonable expectation of success in doing so.

Thus, Applicants respectfully submit that the rejections are untenable as applied to the amended claims and should be withdrawn.

CONCLUSION

In view of the foregoing amendments and remarks, it is respectfully submitted that the present application is in condition for allowance and early notice to that effect is hereby requested. If the Examiner has any comments or proposals for expediting prosecution, please contact the undersign attorney at the telephone number below.

Respectfully submitted,

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